

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**IESI LA LANDFILL CORPORATION
(TIMBERLANE LANDFILL)
AI # 52277**

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

* **Settlement Tracking No.**
* **SA-AE-06-0004**
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* **Enforcement Tracking No.**
* **AE-PP-05-0117**
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SETTLEMENT

The following Settlement is hereby agreed to between IESI LA Landfill Corporation ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation that operates Timberlane Landfill ("the Facility"), which is located at 376 Pawnee Road in Oakdale, Allen Parish, Louisiana.

II

On August 8, 2005, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-05-0117, which was based upon the following findings of fact:

On or about March 24, 2005, an inspection and subsequent file review of the Facility was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility currently operates under Title V Permit No. 0060-00063-V0, issued on June 7, 2004.

While the investigation of the Department is not yet complete, the following violations were noted during the course of the inspection and subsequent file review:

- A. The Respondent failed to submit the facility's Title V Semiannual Monitoring Form for the period encompassing June 7, 2004, through June 30, 2004, by the September 30, 2004, deadline. The report was dated May 11, 2005, and received on May 25, 2005. This late submittal is a violation of General Condition K of Title V Permit No. 0060-00063-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- B. The Respondent failed to submit the facility's 2004 Title V Annual Compliance Certification by the March 31, 2005, deadline. The report was dated May 23, 2005. This late submittal is a violation of General Condition M of Title V Permit No. 0060-00063-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

On or about July 11, 2005, a file review of the Respondent's facility was conducted to determine the degree of compliance with the Act and Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the file review:

The Respondent submitted the facility's Title V Permit Application on or about February 26, 2004. According to the Title V Permit Application, correspondence dated July 11, 2005, and a phone conversation on July 11, 2005, the Respondent began construction of the facility on or about November 1, 2002, and began operating the facility on or about August 27, 2003. The facility's Title V Permit No. 0060-00063-V0 was issued on June 7, 2004. The Respondent failed to submit a permit application and receive approval from the permitting authority prior to construction, modification and/or operation of the facility, which ultimately may have resulted in an initiation or increase in emission of air contaminants. This is a violation of LAC 33:III.501.C.1, LAC 33:III.501.C.2, and Section 2057(A)(2) of the Act.

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00), of which SEVEN HUNDRED NINETY SIX AND 34/100 DOLLARS (\$796.34) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Allen Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

IESI LA LANDFILL CORPORATION

BY:

Phillip Smith
(Signature)

Phillip Smith

(Printed or Typed)

TITLE:

Vice President

THUS DONE AND SIGNED in duplicate original before me this 13 day of

April

, 20

06

, at

5:30 pm



Gina R. Eads

NOTARY PUBLIC (ID #)

Gina R. Eads

(Printed or Typed)

LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY

Mike D. McDaniel, Ph.D., Secretary

BY:

Harold Leggett

Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 11th day of

July

, 20

06

, at Baton Rouge, Louisiana.

Carolyn O. Bryant

NOTARY PUBLIC (ID # 24983)

Carolyn O. Bryant

(Printed or Typed)

Approved:

Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary